

76-1376
19 May 1976

MEMORANDUM FOR: Chief, Policy and Plans Group
Office of Security

STATINTL

FROM :
Chief, Review Staff
Office of Personnel

SUBJECT : Proposed Executive Order re Suitability Requirements
for Government Employment

REFERENCE : Draft Proposed Executive Order, dated 4 May 1976,
re same subject

1. The following is in response to your verbal request for Office of Personnel comments on referent Executive Order draft. Due to the deadline for receipt of our input, the review has necessarily been brief, which we regret as the proposals contained in the draft have serious impact on employment procedures. The Order would obviously create major changes in these procedures, most of which we feel can be accommodated. The comments herein are narrowed, therefore, to the proposals that appear to be incompatible with Agency policies.

2. While the Order appears to address itself to situations where there is a difference between positions designated Positions of Special Trust and others, we assume all positions in the Agency would qualify as Positions of Special Trust. We also assume that although the draft limits the definition of civilian employee to appointive positions, the regulations would apply to Agency positions occupied by contract employees.

3. Section 4 of the CIA Act should preclude any requirement that the Agency file its investigative reports with the Civil Service Commission, but we believe this should be considered in any rewriting of the draft. During the House consideration of the Henderson Bill, the Agency - with the support of CSC - took a strong position exempting us from Civil Service Commission oversight, monitoring, investigation, reporting and appeals. We should take as strong a position on the draft Executive Order.

4. We foresee problems in the adjudication process in the initial investigations and the due process procedures to be followed in the disqualification of applicants or incumbents. We question if a simple statement of national security, as implied in the draft, would be acceptable for a disqualification and believe the Civil Liberties Union would jump on such a simplistic approach. We offer no solutions; simply that this procedure, as it is provided for in the draft, appears to invite criticism and litigation. Under present procedures when no specific reason is given for a disqualification, the national security factor can easily disappear into the whole. With this new approach, a disqualification for such reasons would be highlighted; it would be impossible to use subterfuge to cover this factor in view of the avenues being opened for rebuttal of the other reasons for turndown. The applicant appeal channel to the Federal Employee Appeal Authority also causes us concern, simply from the security aspects of such appeals and our inability to control the circumstances of appeal.

5. The proposal that the government agencies use the same personal history application forms could pose a problem for the Office of Personnel. We would have to reserve judgment until we see whether the CSC form is adequate to our specific Agency needs.

6. We have not included comments on the proposals which are of direct interest to your office, such as the investigative procedures, the retention of files, limitations of the polygraph use, et al.



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